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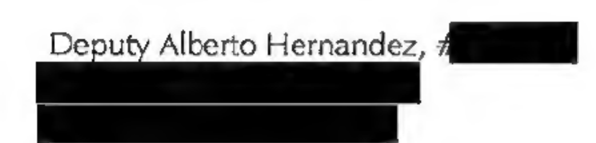
IAB #SH 2243898 & IV 2251840


Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



December 15, 2010


Deputy Alberto Hernandez, #[redacted]
[redacted]

Dear Deputy Hernandez:

On May 5, 2010, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2251840. You were also advised of your right to review the material on which the discipline was based.

You are hereby notified that pursuant to an Education-Based Discipline (EBD) Agreement between you and this Department dated November 17, 2010, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of seven (7) days. However, pursuant to the EBD agreement, the seven (7) days will be held in abeyance for a period of twelve (12) months which will end on November 16, 2011. All Department records will reflect, nevertheless, that you received a seven (7) day suspension. In accordance with the EBD Agreement, you have agreed to participate in an education-based alternative to discipline. Should you fail to complete any of the terms and conditions of the EBD Agreement, the seven (7) days held in abeyance will be imposed.

An investigation under File Number IAB 2251840, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about May 24, 2009, you failed to properly perform your duties and/or failed to conform to the work standards established for your position, as evidenced by but not limited to:

a) unnecessarily putting yourself and/or your partner and/or the public in an unsafe position, when you failed to adequately communicate and/or coordinate with your partner (Deputy Jimenez), when you approached and/or dealt with suspects who were possibly involved in an armed robbery incident, and/or;

b) failing to communicate with the station and seek backup when you decided to contact two suspects who were possibly involved in an armed robbery incident, and/or;

c) failing to ensure the safety and/or check on the welfare of employee(s) and/or patron(s) of an establishment that had been potentially robbed, prior to chasing a potential suspect, leaving the employees to potentially deal with another suspect in the vicinity of the store, and/or;

d) failing to draw your weapon prior to chasing a believed to be armed robbery suspect and gang member, and/or;

e) failing to use sound tactics when you chose to close the distance and/or attempted to apprehend a believed to be armed robbery suspect and gang member, and/or;

f) failing to reassess the advisability of a foot pursuit designed to apprehend the suspect after you repeatedly observed the suspect reaching for his pocket in an attempt to either keep an object from falling or arm himself, and/or;

g) immediately after the shooting incident, choosing to retrieve your radio car rather than ensure the safety of the possible robbery victims who were left with one suspect still potentially in or nearby the store, and/or;

h) immediately after the shooting incident, failing to adequately broadcast and/or confirm the existence of any outstanding suspects to responding units.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.
Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Diane E. Walker, Captain
Commander, Compton Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

DEW:KM:md

c: Advocacy Unit
Cecil W. Rhambo Jr., Chief, Field Operations Region II
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Compton Station/unit Personnel File

EDUCATION-BASED DISCIPLINE AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Alberto Hernandez, Employee No. [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in IAB No. 2251840 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the seven (7) day suspension shall stand.

2. The Department will, upon execution of this Education-Based Discipline (EBD) Agreement, hold the seven (7) suspension days in abeyance.

3. Both parties agree and understand that the Grievant's records will reflect that the seven (7) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline." In addition, the Grievant understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

4. The Grievant further agrees to attend and complete the below listed EBD courses and understands that failure to complete all of the courses and assignments shall result in the imposition of the seven (7) days held in abeyance:

- Lieutenant's Interactive Forum for Education (LIFE) class (8 hours)
- Behavior Stress Management class (4 hours)
- Tactical Communications class (8 hours)
- TAS training (Inoculation Training, Stress Training, Weapons Training, Shoot-Don't Shoot Training) (16 hours)
- Write an EBD evaluation reflecting on your experience with the EBD process

5. The Department may adjust the Grievant's schedule to participate in EBD courses and EBD items, as EBD is conducted on-duty.

6. The Grievant agrees to cooperate with his Unit Commander to complete the courses as soon as practicable, but no longer than one (1) year from the date of execution of this EBD Agreement.

12/7/10

7. The Grievant further agrees to waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph three (3), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

8. The parties further agree that this EBD Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

9. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter referred to herein.

10. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

11. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this EBD Agreement.

12. The parties agree that the foregoing comprises the entire EBD Agreement between the parties and that there have been no other promises made by any party. Any modification of this EBD Agreement must be in writing.

I have read the foregoing EBD Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Date: 11/16/10

Alberto Hernandez, Deputy

Date: 11/17/10

Diane Walker, Captain



Leroy D. Baca, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard

Monterey Park, California 91754-2169



May 5, 2010

Deputy Alberto Hernandez, #[redacted]

[redacted]

Dear Deputy Hernandez:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of seven (7) days.

An investigation under IAB File Number 2251840, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about May 24, 2009, you failed to properly perform your duties and/or failed to conform to the work standards established for your position, as evidenced by but not limited to:

   a) unnecessarily putting yourself and/or your partner and/or the public in an unsafe position, when you failed to adequately communicate and/or coordinate with your partner (Deputy Jimenez), when you approached and/or dealt with suspects who were possibly involved in an armed robbery incident, and/or;

   b) failing to communicate with the station and seek backup when you decided to contact two suspects who were possibly involved in an armed robbery incident, and/or;

c) failing to ensure the safety and/or check on the welfare of employee(s) and/or patron(s) of an establishment that had been potentially robbed, prior to chasing a potential suspect, leaving the employees to potentially deal with another suspect in the vicinity of the store, and/or;

d) failing to draw your weapon prior to chasing a believed to be armed robbery suspect and gang member, and/or;

e) failing to use sound tactics when you chose to close the distance and/or attempted to apprehend a believed to be armed robbery suspect and gang member, and/or;

f) failing to reassess the advisability of a foot pursuit designed to apprehend the suspect after you repeatedly observed the suspect reaching for his pocket in an attempt to either keep an object from falling or arm himself, and/or;

g) immediately after the shooting incident, choosing to retrieve your radio car rather than ensure the safety of the possible robbery victims who were left with one suspect still potentially in or nearby the store, and/or;

h) immediately after the shooting incident, failing to adequately broadcast and/or confirm the existence of any outstanding suspects to responding units.

Prior to determining this disciplinary action, the Department's Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Brian A. Meeder, A/Captain
Commander, Compton Station

BAM:KM:md

c: Advocacy Unit
Employee Relations Unit
Cecil W. Rhambo Jr., Chief, Field Operations Region II
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2251840)

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: March 17, 2010

OFFICE CORRESPONDENCE FILE NO. IV2251840-SH2243898

FROM: ERIC B. SMITH, COMMANDER LEADERSHIP & TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING**

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the use of force incident which occurred on May 24, 2009.

The Committee met on March 11, 2010, and consisted of me, Commander Stephen B. Johnson, Custody Operations Division and Commander Michael J. Rothans, Field Operations Region III.

The Committee deemed:

- as **Unresolved** the allegation that Deputy Alberto Hernandez #[redacted] violated the **Department's Manual of Policy and Procedures, Section(s)** 3-01/030.10 **(Obedience to Laws, Regulations, and Orders)** Re: Manual of Policy and Procedures, Section(s) 5-09/220.50, Revision Date: October 5, 2004, **(Foot Pursuits),** on or about May 24, 2009, while initiating a foot pursuit, you failed to broadcast required information to SCC within the first few seconds of the pursuit.

- as **Founded** the allegation that Deputy Alberto Hernandez #[redacted] violated the **Department's Manual of Policy and Procedures, Section** 3-01/050.10 **(Performance to Standards)**, on or about May 24, 2009, you failed to properly perform your duties and/or failed to conform to work standards established for your position, as evidenced by but not limited to:

    a) Unnecessarily putting yourself and/or your partner and/or the public in an unsafe position, when you failed to adequately communicate and/or coordinate with your partner (Deputy Jimenez), when you approached and/or dealt with suspects who were possibly involved in an armed robbery incident, and/or

b) failing to communicate with the station and seek back up when you decided to contact two suspects who were possibly involved in an armed robbery incident, and/or

c) failing to ensure the safety and/or check on the welfare of employee(s) and/or patron(s) of an establishment that had been potentially robbed, prior to chasing a potential suspect, leaving the employees to potentially deal with another suspect in the vicinity of the store, and/or

d) failing to draw your weapon prior to chasing a believed to be armed robbery suspect and gang member, and/or

e) failing to use sound tactics when you chose to close the distance and/or attempted to apprehend a believed to be armed robbery suspect and gang member, and/or

f) failing to reassess the advisability of a foot pursuit designed to apprehend the suspect after you repeatedly observed the suspect reaching for his pocket in an attempt to either keep an object from falling or arm himself, and/or

g) immediately after the shooting incident, choosing to retrieve your radio car rather than ensure the safety of the possible robbery victims who were left with one suspect still potentially in or nearby the store, and/or

h) immediately after the shooting incident, failing to adequately broadcast and/or confirm the existence of any outstanding suspects to responding units.

The Committee recommended that Deputy Alberto Hernandez #[redacted] receive a **Suspension with loss of pay and benefits for _7_ days.**

EBS:YLW/ylw

Discipline Assessment

Review of Applicable Guidelines for discipline Section:

The Department's Guidelines for Discipline (Revised July 27, 2008) lists the following Analogous misconduct with associated disciplinary penalties:

Conduct	**Standard Discipline**
Performance to Standards	W/R to Discharge

Determination of Discipline:

Based upon the attached assessment of mitigating and aggravating factors, the following discipline has been determined to be appropriate. This discipline is subject to revision upon receipt of the subject's response of grievance.

_____ **Discharge**
_____ **Reduction in Rank**
__X__ **Suspension with loss of pay and benefits for __7__ days**
_____ **Written Reprimand**
No discipline

Assessment of Mitigating and Aggravating Factors:

The following describe the mitigating and aggravating factors in the determining the discipline in this investigation. Those factors include:

Intent	Truthfulness
Past Performance	Severity of Infraction
Degree of Culpability	Acceptance of Responsibility
Disciplinary History	Other Factors

Management has considered the subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to the disposition worksheet.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

December 14, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #: 09-0330
L.A.S.D. File #: 009-08480-2821-145

Dear Captain Smith:

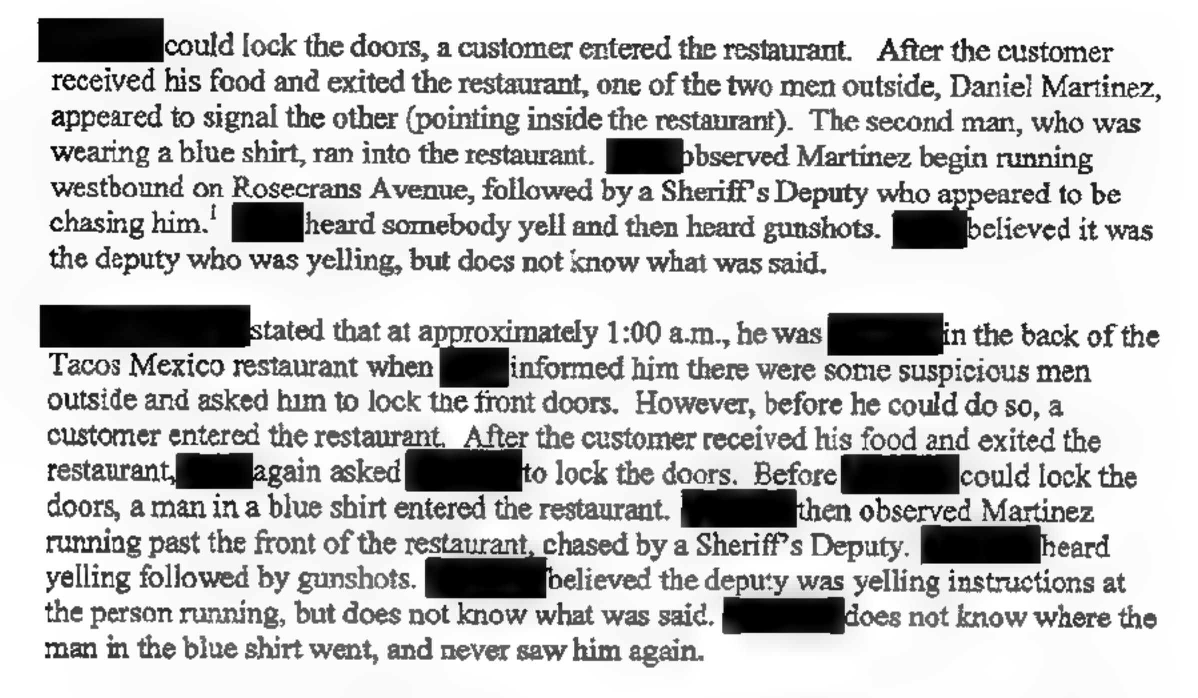
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 24, 2009, non-fatal shooting of Daniel Martinez by Los Angeles County Sheriff's Deputy Alberto Hernandez. We have determined that Deputy Hernandez acted lawfully in self-defense.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau, submitted to this office on October 26, 2009, by Detective Sergeant Kevin Lloyd and Detective Jeffrey Leslie. No compelled statements were considered. The District Attorney Command Center was notified of this shooting at 2:47 a.m., on May 24, 2009. The District Attorney Response Team, consisting of Deputy District Attorney Sean Hassett and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the incident and a "walk through" of the scene by Lieutenant Dave Dolson. They also participated in the interviews of witnesses [redacted] and [redacted]

FACTUAL ANALYSIS

[redacted] stated that on May 24, 2009, at approximately 1:20 a.m., she was [redacted] as the [redacted] at Tacos Mexico when she observed two gang members at the corner of Santa Fe Avenue and Rosecrans Avenue, pacing back and forth and looking in all directions. The men were making her nervous and she feared something was "gonna happen." [redacted] asked her [redacted] to lock the doors. However, before

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
WEBSITE: http://da.co.la.ca.us


[redacted] could lock the doors, a customer entered the restaurant. After the customer received his food and exited the restaurant, one of the two men outside, Daniel Martinez, appeared to signal the other (pointing inside the restaurant). The second man, who was wearing a blue shirt, ran into the restaurant. [redacted] observed Martinez begin running westbound on Rosecrans Avenue, followed by a Sheriff's Deputy who appeared to be chasing him.[1] [redacted] heard somebody yell and then heard gunshots. [redacted] believed it was the deputy who was yelling, but does not know what was said.

[redacted] stated that at approximately 1:00 a.m., he was [redacted] in the back of the Tacos Mexico restaurant when [redacted] informed him there were some suspicious men outside and asked him to lock the front doors. However, before he could do so, a customer entered the restaurant. After the customer received his food and exited the restaurant, [redacted] again asked [redacted] to lock the doors. Before [redacted] could lock the doors, a man in a blue shirt entered the restaurant. [redacted] then observed Martinez running past the front of the restaurant, chased by a Sheriff's Deputy. [redacted] heard yelling followed by gunshots. [redacted] believed the deputy was yelling instructions at the person running, but does not know what was said. [redacted] does not know where the man in the blue shirt went, and never saw him again.

LASD Deputy Sergio Jimenez stated that he and his partner, Deputy Alberto Hernandez, were on patrol driving a marked black and white police vehicle, when he observed Daniel Martinez standing in the patio area of the Tacos Mexico restaurant on the northwest corner of Santa Fe Avenue and Rosecrans Avenue. Martinez, who was acting strangely, had a tattoo on the back of his head and appeared to be a gang member. Jimenez noticed another man inside the restaurant and based on the two men's body positioning and the way they were acting, it appeared that "They had some kind of plan." Jimenez believed they were together and were possibly preparing to rob the restaurant. Jimenez informed Deputy Hernandez, "It looks like they are getting ready to do something." The deputies negotiated a U-turn and parked their vehicle next to the restaurant. Jimenez could only see Martinez's upper torso because bushes partially obstructed his view. Jimenez could see Martinez had a look on his face like, "uh-oh." Jimenez exited the vehicle, drew his weapon, and ordered Martinez to stop and show his hands. Martinez failed to respond and Jimenez again ordered him to, "Show me your hands." Martinez reacted by crouching down and making a motion towards his waistband. Jimenez pointed his weapon at Martinez and told Deputy Hernandez, "He is going for his waistband." Martinez turned around and began running westbound on Rosecrans Avenue.

Deputy Jimenez believed Martinez was pulling out a gun and thought, "I'm going to have to shoot him." Deputy Jimenez stated that he was in fear for his life. Deputy Hernandez was approximately fifteen yards behind Martinez, chasing after him. Hernandez was yelling, "Stop running. Show me your hands." Martinez slowed down, turned to his right and stuck his hand towards his right hip. Martinez appeared to be "tugging" on

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[1] [redacted] believed the man in the blue shirt hid in the restroom. Deputies later cleared the restroom, but discovered it was vacant.

something in his rear pant pocket. Jimenez observed Martinez remove a dark object from his back pocket. Jimenez heard Deputy Hernandez yell, "417" and shoot.[2]

Deputy Hernandez stated that at approximately 1:20 a.m., he saw two male gang member types at the Tacos Mexico restaurant. One of them was by the front door and the other, Daniel Martinez, was on the patio. Martinez appeared to be looking in all directions and Hernandez believed Martinez was possibly a lookout for something going on inside the restaurant. Hernandez recalled that there had been a series of robberies in the area along with a recent robbery at a taco stand by a Hispanic male gang member with a shaved head near this location.[3] Hernandez could hear some kind of yelling coming from the front of the restaurant, but could not tell what was being said.

Deputy Hernandez made a U-turn and parked his patrol vehicle next to the restaurant. Hernandez observed Martinez walk closer to the restaurant door. Hernandez could no longer see the other man. Hernandez was only able to see Martinez's upper torso due to a hedge along the side of the restaurant. Hernandez exited his patrol vehicle with his partner, Deputy Jimenez. As they approached Martinez, Hernandez saw Martinez had an "Oh, shit" (startled) look on his face. Deputy Jimenez warned Hernandez to, "Watch his hands." Martinez turned and began running westbound on Rosecrans Avenue.

Deputy Hernandez began chasing Martinez. Hernandez commanded Martinez to stop running and get on the ground in both English and Spanish Hernandez saw Martinez reach towards his right rear pocket as he was running. Hernandez could not tell if Martinez was retrieving an item, or trying to hold on to one so it would not fall out of his pocket. Hernandez believed that Martinez might have just robbed the Tacos Mexico restaurant and might be armed with a gun. As they reached Willow Avenue, Hernandez saw Martinez reach for his back pocket and at the same time, turn his head and look directly at Hernandez. Hernandez saw Martinez retrieve a black object from his back pocket and fearing for his life, fired two rounds from his service weapon, striking Martinez. Martinez collapsed to the ground wounded.

A black leather wallet was recovered from the ground next to Martinez.[4] The surrounding area was searched, but no firearm was recovered.

Fire Department personnel responded to the scene, rendered aid to Martinez and transported him to St. Francis Medical Center. No other persons were injured.

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[2] "417" is code for "man with a gun" and is based on Penal Code section 417, which prohibits Drawing, Exhibiting or Using a Firearm in a threatening manner.

[3] During the prior three months there were in excess of 35 armed robberies within a ten mile radius involving male Hispanic suspects, including an armed robbery that occurred on April 26, 2009, at the Taqueria Zavala #5 at 518 E. Rosecrans Avenue, one block west of the Tacos Mexico Restaurant. In that instance, deputies observed the robber fleeing the scene and a deputy involved shooting occurred.

[4] The wallet contained Martinez's California Identification Card and a traffic ticket issued to him.

A blood sample was taken from Martinez at 6:40 a.m., approximately five hours after the shooting.[5] Martinez' blood alcohol level at that time was determined to be 0.13%.

Martinez refused to provide a statement, telling detectives that he would not speak to them at that time or any other time.

Daniel Martinez is a documented member of the Compton Vario 70's (CV 70's) criminal street gang, with the moniker of "Danny Boy." Martinez has tattoos of "Always up to no good" and "Compton" on his chest, "CV 70" on his calves, and "70 V Compton" on his head. At the time of the shooting, Martinez was on [redacted]

CONCLUSION

Pursuant to California law, a person is justified in using deadly force in self-defense when that person reasonably believes that he or she is in imminent danger of being killed or suffering great bodily injury and that the use of deadly force is necessary to protect against that danger. *Judicial Council of California Criminal Jury Instructions (CALCRIM) 505.* People v. Williams, (1977) 75 Cal.App.3d 731.

CALCRIM 505 also instructs that, "If the defendant's beliefs were reasonable, the danger does not need to have actually existed." Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo, (1948) 85 Cal.App.2d 577.*

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight…The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. *Graham v. Conner, (1989) 490 U.S. 386, 396-397.*

The evidence examined in this investigation indicates that on May 24, 2009, LASD Deputies Alberto Hernandez and Sergio Jimenez were in uniform in a marked police vehicle when they observed Daniel Martinez standing in front of the Tacos Mexico restaurant. Martinez appeared to be a gang member, and his behavior made the deputies suspect he might be acting as a lookout for a robbery of the restaurant. The deputies also observed another man who appeared to be a gang member, near the front door of the

[5] Hospital personnel informed Sheriff's Deputies that Martinez was "drunk," smelled like alcohol and was referring to the hospital staff as "Bitches" and answering questions with, "Fuck you."
[6] Martinez was [redacted]

restaurant. This man appeared to be acting in concert with Martinez. When the deputies attempted to contact Martinez, he fled. Martinez ignored Deputy Hernandez's commands to stop, show his hands and get on the ground. Instead, Martinez appeared to be attempting to remove a black object from his pant's pocket. At the intersection of Rosecrans Avenue and Willow Avenue, Martinez turned and looked toward Deputy Hernandez, and Deputy Hernandez observed a black object in Martinez's hand. Believing the object was a gun and fearing for his life, Deputy Hernandez fired two rounds at Martinez, wounding him.

Although, the black object in Martinez's hand was a wallet and not a gun, Deputy Hernandez's fears were still reasonable. Based on their observations, it would have been inexcusable for Deputies Hernandez and Jimenez to have simply continued driving, leaving [redacted] and [redacted] to their fates. Deputy Hernandez was performing his sworn duty when he attempted to contact Martinez to determine whether or not he was in the process of robbing the Tacos Mexico restaurant. Late at night, approaching two men who appeared to be gang members about to commit robbery, Deputy Hernandez had every reason to fear for his safety, the safety of his partner and the safety of the employees of Tacos Mexico. Instead of complying with Deputy Hernandez's orders and peacefully surrendering, Martinez fled. By first holding onto and then retrieving his wallet, Martinez caused Deputy Hernandez to believe he was about to be shot.[7]

Given the potentially life threatening situation confronting him, Deputy Alberto Hernandez acted reasonably and lawfully in self-defense. Accordingly, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Sean Hassett

SEAN HASSETT
Deputy District Attorney
(213) 974-3888

c: Deputy Alberto Hernandez, Serial #[redacted]

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[7] Martinez refused to give a statement. Accordingly, it is assumed for purposes of this analysis that Martinez was simply trying to maintain possession of his wallet.

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date	Bureau/Station/Facility	Admin. Invest.?	Hit?
05/24/09	F.O.R. II / Compton Station	☐	☒

Incident Information

URN	Date	Time
009-08480-2821 145	05/24/09	0122 Hours

City or Station: Compton

Location: Willow Avenue and Rosecrans Avenue

Nature of Incident: Deputies Hernandez and Jimenez contacted S/Martinez outside of Tacos Mexico, located at 631 Rosecrans Ave. S/Martinez ran from the deputies and a foot pursuit was initiated. During foot pursuit, S/Martinez turned toward deputies and removed a dark colored object from his rear pants pocket. Deputy Hernandez fired two rounds at S/Martinez, striking him in the upper torso and left inner thigh.

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, **Street**, Other: ______

Lighting (*circle only one*): Darkness, Daylight, Other, **Street Lights**

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance: 10-15 ft.

Incident Type (*circle one or more*): Accidental, Armed Person, **Fleeing Suspect**, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, Other, Search Warrant, **Two Person Unit**

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
2	0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Jimenez	Sergio	A.	**EM** PM Day	**Regular** Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]	[redacted]

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Cooper	Timothy	C.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting
[redacted]	Cruz	Ulysses	A.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Ramirez	Peter	M.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Howard	Dorothy	L.

PSTD Use Only

SH # ______

Officer Involved Shooting

URN: 009-08480-2821-145

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
05/24/09	0330		

Employee #	Last Name	First Name	M
[redacted]	Chemnitzer	Dana	A.
[redacted]	Denison	Trent	A.
[redacted]	Ault	Alicia	E

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton (Control)
(BI) Baton (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds (Control Techniques)
(TT) Control Holds (Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) 243 caliber
(25) 25 caliber
(30) 308 caliber
(35) 357 caliber
(36) 30-60 caliber
(38) 38 caliber
(40) 40 caliber
(41) 410 guage
(44) 44 caliber
(45) 45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	UC	-	-	-	-	NN	-
E#1	S#1	FH	BR	9	Y	Y	GS	BK

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 009-08480-2821 145

Involved Employee

E 1

Employee # [redacted]	Last Name Hernandez	First Name Alberto	M I
Sex M Race Hispanic	Rank DSG	Unit Assignment F.O.R. II / Compton Station	Work Assignment (Unit #, Module, etc.) 286D
ShiftTime (*circle only one*): (EM) PM Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 8 / Age [redacted] Height 602 Weight 215	Duty Time (hrs) [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Range Qualification Date [redacted]	PPC Qualification Date: [redacted]	Laser Training Date:	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted] Prior Shootings? [redacted]	Number of Prior Shootings [redacted] Directed Force [redacted]
Weapons Fired Brand Beretta	Caliber 9mm # Shots 2	Weapons Fired Brand:	Caliber # Shots
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M I

E ___

Employee #	Last Name	First Name	M I
Sex Race	Rank	Unit Assignment	Work Assignment (Unit #, Module, etc.)
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: / Age: Height: Weight:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings Directed Force: ☐
Weapons Fired Brand:	Caliber # Shots	Weapons Fired Brand:	Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M I.
Field Training Officer Emp #	Last Name	First Name	M I

E

Employee #	Last Name	First Name	M I
Sex Race	Rank	Unit Assignment	Work Assignment (Unit #, Module, etc.)
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: / Age: Height: Weight:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date	PPC Qualification Date:	Laser Training Date	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force ☐
Weapons Fired Brand:	Caliber # Shots	Weapons Fired Brand:	Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M I
Field Training Officer Emp #	Last Name	First Name	M I

Officer Involved Shooting
Suspect Information

URN: 009-08480-2821-145

Suspect Information

S 1	Last Name Martinez	First Name Daniel	M I
	AKA Last Name "Danny Boy" "Compton Vario 70" gang	First Name	M I
	Sex M Race Hispanic	Street Address [redacted] City [redacted]	[redacted] & Zip Code [redacted]
	Work Phon[redacted]	Home Ph[redacted] Social Secu[redacted]	Driver's Lic[redacted]
	Age 21 D O B 11/14/87	Height 508 Weight 163 FBI # [redacted]	CII # [redacted]
	Booking # 1921106	Primary Charge: 3056 PC Secondary Charge: 148(a)(1) PC	
	Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used
	Armed? ☐	Apprehended? ☒ Mental Illness? ☐	Criminal History? [redacted]
	Vehicle Make None	Model:	Year:

S__	Last Name	First Name	M I
	AKA Last Name	First Name	M I
	Sex Race	Street Address City	State & Zip Code
	Work Phone	Home Phone: Social Security #:	Driver's License #
	Age D O B	Height Weight FBI #	CII #
	Booking #	Primary Charge: Secondary Charge:	
	Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used
	Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
	Vehicle Make	Model	Year:

S__	Last Name	First Name	M I
	AKA Last Name	First Name	M I
	Sex Race	Street Address: City	State & Zip Code
	Work Phone:	Home Phone: Social Security #:	Driver's License #
	Age D O B	Height Weight FBI #	CII #
	Booking #	Primary Charge: Secondary Charge:	
	Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used
	Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
	Vehicle Make	Model:	Year

S__	Last Name	First Name	M
	AKA Last Name	First Name	M
	Sex Race	Street Address: City	State & Zip Code
	Work Phone:	Home Phone: Social Security #:	Driver's License #
	Age D O B	Height Weight FBI #	CII #
	Booking #	Primary Charge: Secondary Charge:	
	Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used
	Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
	Vehicle Make	Model	Year

SH R-438A rev 3/07

See Other Side

Investigative Summary

Incident	Deputy Involved Hit Shooting
LASD Report:	009-08480-2821-013
IAB File:	IV 2251840 & SH2243898

Opening Statement

On May 24, 2009, IAB investigators Sergeant Dana Chemnitzer, Sergeant Trent Denison and Lieutenant Alicia Ault responded to a Command Post erected by Compton Station personnel in regards to a Deputy Involved Hit Shooting in the city of Compton. Investigators were given a briefing by Homicide detectives regarding the incident. Sergeant Trent Denison was assigned the Shooting Review.

Synopsis

On May 24, 2009, Deputy Sergio Jimenez and Alberto Hernandez, Compton Unit 286D, were driving north on Santa Fe Avenue at Rosecrans Avenue when they saw Suspect Daniel Martinez standing outside a Tacos Mexico restaurant on the northwest corner of the intersection. Both deputies noticed Suspect Martinez and another male suspect, both dressed in gang attire, looked about suspiciously as if they were casing the restaurant in order to commit a crime, possibly a robbery.

Deputy Hernandez drove north on Santa Fe Avenue then made a u-turn and drove south toward the restaurant. When they parked their marked radio car at the north side of the Tacos Mexico, they noticed Suspect Martinez walking north along the east wall of the restaurant and in between the wall and some bushes. Deputy Jimenez exited the radio car and ordered suspect Martinez to stop however, Suspect Martinez did not comply. After several orders to stop, Suspect Martinez suddenly turned and ran south then west along Rosecrans Avenue. Deputy Hernandez and Deputy Jimenez ran after the suspect because they believed he was about to, or had already robbed the restaurant. The foot chase lasted for one block when Suspect Martinez stepped off the curb on the north side of Rosecrans Avenue and Willow Street. As Suspect Martinez ran into the street, he looked over his shoulder at Deputy Hernandez, who was approximately twenty feet behind him, and withdrew a black object from his right rear pants pocket. Deputy Hernandez feared the black object was a gun and that Suspect Martinez was about to shoot him. Therefore, in self defense, Deputy Hernandez fired two times at Suspect Martinez, striking him in the upper back and left thigh. Suspect Martinez fell to the ground and was arrested. The suspect's black wallet with a rooster embossed in tan stitching was located on the ground near where he fell in the street. No weapon was found on or near the suspect. It was later determined that the Tacos Mexico had not been robbed by the suspect.

IAB Lieutenant Ault checked to see that the Compton Station Watch Commander took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Ault checked to see if the Watch Commander attempted to have involved and witness personnel gather in the company of a supervisor until they had provided a statement to the assigned investigators.

This Deputy Involved Hit Shooting incident was investigated and documented by Homicide detectives. For more information, see the Homicide Investigation Book and the District Attorney Letter of Opinion **[Exhibit A]**.

IV 2251840 was assigned to this investigation for MPP sections: **Obedience to Laws, Regulations, and Orders,** and for **Performance to Standards.**

<u>Involved Personnel</u>
Deputy Alberto Hernandez #[redacted]
Compton Station

<u>Work History</u>

Date of Employment:	10/99
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	[redacted]
Date Assigned to Compton Station:	03/07
Prior Shooting Incident(s):	 [redacted]
Prior Founded Force Incident(s):	[redacted]

<u>Suspect</u>
Martinez, Daniel, MH/11-14-87, 5'08", 163 lbs., [redacted] unemployed, AKA: "Danny Boy" from the "Compton Varrios 70" or "CV 70" gang. Suspect Martinez has a lengthy criminal history that includes arrests and conviction for: [redacted]

Suspect Martinez' blood was tested five hours after the shooting and his BAC was at 0.13%. No other intoxicants were found in his blood.

Suspect Martinez was on [redacted] at the time of this incident. His [redacted] due to the suspect's medical condition.

Per Homicide Detective Sergeant Lloyd, the District Attorney's office declined to file criminal charges against Suspect Martinez.

Witnesses
Deputy Sergio Jimenez #[redacted] Compton Station

Several witnesses were located and identified by Homicide detectives during their investigation, but none witnessed the shooting. For more information and statements by the witnesses, see pages 1 - 5, 19, 20 & 40 in the Homicide Investigation Book

Witness [redacted] was interviewed by Homicide Detectives in the presence of IAB investigators on May 24, 2009. She said she was [redacted] as the [redacted] inside Tacos Mexico when she saw what she described as two gang members outside the front windows and acting suspiciously. She said both were acting strangely and looking about for approximately eighteen minutes. She said their actions scared her and caused her to believe the men were going to start shooting at passing vehicles or "do something" so she told the [redacted] Mr. [redacted] to lock the front door of the restaurant in order to prevent the men from entering. Witness [redacted] said there was another patron about to leave the restaurant so the [redacted] did not lock the door. She added that as soon as the patron left, one of the males entered the restaurant and the second male remained outside but pointed his finger inside the restaurant. She believed the first male went into the bathroom then she saw the second male run past the front windows, followed by a deputy running after him. Witness [redacted] said that within seconds of seeing the deputy chasing after the suspect, she heard yelling and then two or three gunshots. She added the male who entered the restaurant had left without her knowing it during the incident. For more information, see Witness [redacted] statements on pages 3 & 4 of the Homicide Investigation Book.

Injuries
Suspect Martinez received two gunshot wounds. One wound between his shoulder blades which impacted his spine in the C-7 area and one wound to his left inner thigh. He was treated at the scene by paramedics and then by Dr. Jones at St Francis Medical Center under Patient #[redacted]. As a result of being shot, he has been paralyzed from the neck down.

No deputies or civilians were injured during this incident.

Physical Evidence
Homicide detectives located a surveillance camera tape **[Exhibit B]** from inside the Tacos Mexico restaurant which shows Suspect Martinez entering the restaurant and then being chased by Deputy Hernandez when outside the restaurant a short time later.

Scene photographs of Suspect Martinez' wallet and location of the shooting are included on a CD **[Exhibit C]**.

Investigators Observations

IAB investigators were given a walk through of the scene by Homicide detectives. IAB investigators noticed a bi fold black wallet with tan stitching on the ground of Willow Street and Rosecrans Avenue Investigators also noticed medical debris on the ground where it was reported Suspect Martinez was treated by paramedics.

Weapon used by Deputy Hernandez

Deputy Hernandez fired two rounds of Department issued 9mm ammunition from his Department issued Beretta 92F.

Weapon used by Suspect Martinez

Suspect Martinez was found to be unarmed.

Property Damage

A 4' x 5' glass window on the east wall of a business, "La Fuente Flowers", 539 Rosecrans Avenue (at the northwest corner of Rosecrans Avenue & Willow Street scene of the shooting). The window was found with a baseball size bullet impact. For more information, see page 19 of the Homicide Investigation Book.

Criminal Investigator

Homicide Sergeant Kevin Lloyd

Lighting and Weather Conditions

This shooting incident took place during the hours of darkness. Ambient lighting was provided by street lights on Rosecrans Avenue and several closed businesses storefront window lights. The weather was cool and clear.

IAB Interview of Deputy Hernandez and Deputy Jimenez

Homicide investigators interviewed both deputies on the date of this incident. A summary of their interviews may be found on pages 5 - 10 of the Homicide Investigation Book. IAB investigators reviewed the tape recordings of said interviews and found that Homicide's summary of each interview is an accurate account of what was said. Per Department protocol, neither deputy authored a report regarding this incident

IAB investigators conducted a Force Review interview of Deputy Hernandez and the following is a summary of the incident as described by Deputy Hernandez and Deputy Jimenez. For more information, see the attached verbatim transcriptions of both the Homicide and IAB interviews.

On November 24, 2009, Deputy **Alberto Hernandez** was interviewed as a Subject by IAB investigators regarding this shooting incident. He said that on the date of this incident, he drove with his partner, Sergio Jimenez when they stopped at the stoplight, on Sante Fe Avenue at Rosecrans Avenue. He said they communicated to one another about two male Hispanics, who were dressed like gang members, they saw standing outside a Tacos Mexico restaurant on the

north west corner of the intersection Deputy Hernandez said they collectively decided to continue driving north then turn around to investigate since one of the males, Suspect Martinez, looked about as if he was preparing to rob the restaurant He added that when they passed by the windows of the Tacos Mexico, he noticed the female cashier looked at them drive by and had the look of needing help or wanting them to stop. He said they made a u-turn and drove south on Sante Fe Avenue toward the location when they saw Suspect Martinez walking north between the wall of the location and bushes on the east side instead of on the sidewalk. He said they drove to within thirty feet of Suspect Martinez when he got out of his car and ordered Suspect Martinez to stop He said Suspect Martinez acted as if he did not hear or see him and continued walking toward them. Deputy Hernandez said Deputy Jimenez said to watch out for the suspect's hands because they were hidden by the bushes at waist level Suspect Martinez suddenly stopped, turned around and ran south then west along the north sidewalk of Rosecrans Avenue. Deputy Hernandez said he chased after Suspect Martinez in front of the Tacos Mexico and west for one block when they came to Willow Street, all the while giving Martinez orders to stop in English and Spanish Deputy Hernandez said he could see a Compton street gang tattoo on the back of Suspect Martinez' head and he was aware that Suspect Martinez matched the general description of male Hispanics who had committed numerous robberies in the area during the preceding months. He added that he was aware the deputy involved hit shooting from the previous month also included a male Hispanic armed with a pistol, who robbed the restaurant down the street from this location and then ran from deputies prior to being shot.

Deputy Hernandez said that he was approximately fifteen to twenty feet behind Suspect Martinez and ordered him to stop when he saw Suspect Martinez run into the street while reaching into his right rear pants pocket. He said Suspect Martinez looked over his right shoulder at him (Deputy Hernandez) while he (Suspect Martinez) withdrew a black object from his pocket, pinched between his forefinger and thumb He believed Suspect Martinez was arming himself with a gun that was in his right rear pocket in order to shoot him or his partner Deputy Hernandez said he stopped running after Suspect Martinez to allow distance between them and because there was no available cover He said Suspect Martinez continued to pull the black object out of his pocket so in order to protect himself and his partner, he fired two rapid shots at Suspect Martinez He said Suspect Martinez fell to the ground near the middle of the street. He added that he had already broadcast that he was in foot pursuit at the onset of the chase and now he requested assisting units and advised that he had just been involved in a shooting Deputy Hernandez said they also requested paramedics to treat Suspect Martinez and that no other force was used

IAB note: **Deputy Hernandez' radio broadcast of the pursuit and shooting did not transmit, for unknown reasons. At the time of the shooting, he asked Deputy Jimenez if his radio transmissions were going out on the radio since SCC had not responded. Deputy Jimenez then broadcast the shooting incident on the radio. For more information, see the radio traffic transcription [Exhibit D].**

During Deputy Hernandez' IAB interview, an aerial photograph **[Exhibit E]** was utilized for reference only, to indicate his location and that of the suspect at certain times during this incident. No crime scene sketche was available.

On May 24, 2009, Deputy **Sergio Jimenez** was interviewed by Homicide detectives while in the presence of IAB investigators Sergeant Denison and Sergeant Chemnitzer. Deputy Jimenez said that he was with his partner, Deputy Hernandez, when they saw two male Hispanic gang members, standing outside the Tacos Mexico restaurant on the north west corner of Rosecrans Avenue and Sante Fe Avenue. He said both individuals looked about, which gave him the impression they were about to rob the restaurant so he told Deputy Hernandez and they decided to investigate. He said they drove north then made a u-turn and drove south on Sante Fe Avenue back toward the restaurant in order to contact the two men. He said he saw Suspect Martinez walking north along the east wall of the restaurant and between the wall and some bushes. He added that he and Deputy Hernandez exited their radio car to contact Suspect Martinez. Deputy Jimenez said he ordered Suspect Martinez to stop and raise his hands however, Martinez acted as if he did not hear the orders and continued to walk and placed his hands near his waistband, which was concealed by the bushes. Deputy Jimenez stated that he believed Suspect Martinez was about to withdraw a gun from his waistband due to his placing his hands there and not obeying their orders for him to show his hands. He said he pointed his gun at Suspect Martinez, and ordered him to show his hands. Suspect Martinez then suddenly turned around and ran away from them. He said Suspect Martinez ran along the front of the Tacos Mexico restaurant and west on the north sidewalk of Rosecrans Avenue while they ran after him and he heard Deputy Martinez broadcast on the radio that they were in foot pursuit of a man with a gun. He said that Deputy Hernandez was in the lead and he was close behind him.

Deputy Jimenez said he saw Suspect Martinez slow his running then look over his right shoulder at them running after him. He said he saw Suspect Martinez reach into his right rear pants pocket and appeared to be "tugging on something" then withdraw a unknown black object. At the same time, he heard his partner, Deputy Hernandez yell "417", which is the radio code for a man with a gun. He said he heard his partner fire his gun and he saw Suspect Martinez fall to the ground. He added he realized that no one was responding to help and determined the original radio broadcast had not been heard. He then used his radio and called for paramedics and he broadcast that they were just involved in a shooting.

For more information regarding Deputy Jimenez' statements, see pages 5 - 8 of the Homicide Investigation book

The second suspect that both deputies and the Tacos Mexico employees reported seeing with Suspect Martinez, was never located or identified.

<u>Suspect Statements</u>
Suspect Martinez invoked his rights and refused to give a statement to investigators.

Miscellaneous

* Admonition Form for Subject Deputy Hernandez

* Related case documents.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY ADDENDUM
IAB# IV2251840

SUBJECT: Deputy Alberto Hernandez #[redacted]
Compton Station

LOCATION: Willow Avenue & Rosecrans Avenue, Compton

INCIDENT DATE: May 24, 2009

DATE OF DEPARTMENT NOTIFICATION: May 24, 2009

PRIMARY INVESTIGATOR: Sergeant Trent Denison

ADDENDUM INVESTIGATION

On January 27, 2010, OIR Attorney Michael Gennaco requested the following additional information:

1. Interview Mr. Martinez (the suspect in the Deputy Involved Shooting) to ascertain his version / side of the story, regarding the shooting. Mr. Martinez refused to make a statement to Homicide or anyone else after the incident.

2. Obtain the crime scene sketch that was mentioned in the Homicide Investigation Book.

3. Obtain the crime scene video that was mentioned in the Homicide Investigation Book.

4. Provide crime scene photographs relevant to the location of shell casings.

Submitted with this addendum is a transcription of Mr. Martinez' interview conducted on February 3, 2010, and the above requested documents and a updated Investigator's Log.

IAB note: The interview was conducted over a speaker phone and of poor audio quality. Approximately nine minutes into the interview, the tape recorder being used stopped functioning therefore, the interview was partially recorded with approximately three minutes missing.

On January 26, Mr. Gennaco advised that he had been in contact with Mr. Martinez' private attorney, Brian Dunn. Mr. Gennaco said that he wished to know what Mr. Martinez would say regarding the shooting and he (Mr. Gennaco) would contact Mr. Dunn again to arrange a phone interview of Mr. Martinez with Mr. Dunn and himself in attendance.

On February 3, 2010, Sergeant Denison, Lieutenant Alicia Ault and Attorney Michael Gennaco went to The Cochran Firm in Los Angeles and met with Mr. Martinez' attorney. The interview was conducted via the phone because Mr. Martinez is now living out of state.
During the interview, Mr. Martinez stated numerous times that he did not remember anything regarding the shooting incident. He said he was not aware he had been shot until approximately five days after the incident and while being treated at the hospital. He had nothing substantial to add.

Off tape, Mr. Dunn said the only additional information Mr. Martinez told him was that he thought he may have run from deputies. This information was told to Mr. Dunn while Mr. Martinez was being treated at the hospital shortly after the shooting incident. Mr. Dunn added that although Mr. Martinez was currently taking prescription medication, nothing he was currently taking would influence or affect Mr. Martinez' memory.

Mr. Martinez has contracted The Cochran Firm to represent him in a law suit he currently has against the Los Angeles County Sheriff's Department as a result of the shooting.